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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,737	12/21/2001	Hironari Masui	500.34763CX3	4538

24956 7590 12/14/2005

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.  
1800 DIAGONAL ROAD  
SUITE 370  
ALEXANDRIA, VA 22314

EXAMINER
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NGUYEN, STEVEN H D

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/023,737	<b>Applicant(s)</b> MASUI ET AL.	
	<b>Examiner</b> Steven HD Nguyen	<b>Art Unit</b> 2665	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 December 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No 08/690819
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                                     |                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                         | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                                | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/1, 1/4, 6/4</u> . | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities:

Page 1 of the pre-amend, “,now US patent 6,393,013” should be inserted after “2000”.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
4. Claims 18-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Amitay (USP 5371780) in view of Chang (IEEE) and Quick (USP 5371780).

Regarding claim 18, Amitay discloses a system (Fig 1) comprising a base station (Fig 1, ref 24) and a plurality of terminals (Fig 1, ref 42), wherein a terminal having a request for data

Art Unit: 2665

transmission transmits a reservation packet to said base station (Col. 6, lines 29-50), said base station, having received a reservation packet, transmits a reply packet to said terminal which transmitted said reservation packet (Col. 6, lines 29-50). However, Amitay fails to disclose generates a busy tone signal to control transmission of reservation packets from said plurality of terminals, and transmits said busy tone and reply packet with a same spreading code and despreding the busy tone and reply packet using the same spreading code and using busy tone to control transmission of reservation packet by upward schedule controller. However, Chang discloses a system for generating a busy tone for transmitting from the base station to the mobiles in order to control the transmission of the mobiles which use this information to control transmission of the packet to the base station (Page 1322, left col. from “to prevent” to “incipient congestion” and Page 1323, Left col. from “base station” to “busy tone”). However, Amitay and Chang fail to disclose busy tone and reply packet are spreaded with a same spreading code. In the same field of endeavor, Quick discloses a method and system comprising a page channel for using to broadcast control information “busy signal” and channel assignment message “reply packet” to the mobile using a same spreading code and despreding the control information and channel assignment message at the mobile with a same spreading code (Col. 4, lines 39-61 and col. 12, lines 20-39).

Since, Quick suggests these methods can be applied to any digital communication such TDMA, CDMA or others. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to apply a method for spreading reply packet and busy tone with a same spreading code as disclosed by Quick into the system of Chang in order to reduce the cost of the system. Furthermore, Chang suggests the buy tone signal used in CDMA

Art Unit: 2665

environment. Therefore, it would have been obvious to one of ordinary skill in the art to apply a method and system for controlling the transmitting of packets from the mobiles to the base station into the teaching of Amitay. The motivation would have been to improve channel assignment and reducing the congestion of the system.

### *Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Zhang (IEEE) discloses a CDMA system for allowing the mobiles to transmit reservation packet to base station and receiving a reply packet includes channel assignment for allowing the winning mobile to transmit a data packet. The other mobiles will be restrained from sending another reservation packet based on distributed with parameter.

Behtash (USP 5553076) discloses a system for granting a terminal to transmit data messages after resolving the received reservation request messages from a plurality of terminals wherein terminals receives sync, busy, authorization ID.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (571) 272-3159. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2665

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Steven HD Nguyen  
Primary Examiner  
Art Unit 2665  
December 7, 2005